

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

CIVIL ACTION NO.: 2:22-CV-00816-DCN

John Doe 197,

Plaintiff,

v.

The Bishop of Charleston, a Corporation
Sole, The Bishop of the Diocese of
Charleston, in his official capacity, and Rev.
Fr. Bryan Babick,

Defendants.

**MOTION TO DISMISS FOR LACK OF
SUBJECT MATTER JURISDICTION**

COME NOW, Defendants, The Bishop of Charleston, a Corporation Sole, The Bishop of the Diocese of Charleston, in his official capacity, by and through their undersigned attorneys, hereby moving the Court to dismiss this action pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. This motion is based upon the applicable case and statutory authority, pleadings in this action, the Memorandum of Law in Support, the arguments of counsel and the following:

1. This Court does not have federal question subject matter jurisdiction pursuant to 28 U.S.C. § 1331. Plaintiff alleges that his cause of action under 18 U.S.C. § 2242 presents a question arising under federal law, however, 18 U.S.C. § 2242 is the federal criminal sexual assault statute and does not provide a private cause of action.

2. This Court does not have diversity jurisdiction pursuant to 28 U.S.C. § 1332 because Plaintiff and Defendants are citizens of the State of South Carolina.

3. Accordingly, this Court must dismiss this action for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure.

4. Pursuant to Local Rule 7.02(A), no consultation is required prior to filing this motion. Notwithstanding the same, undersigned counsel has attempted to confer with Plaintiff's counsel in a good faith effort to resolve this matter without Court intervention, but Plaintiff's counsel does not consent to the relief sought in this motion.

Respectfully submitted,

TURNER PADGET GRAHAM LANEY, PA

s/Richard S. Dukes, Jr.

Richard S. Dukes, Jr., Federal ID No. 7340

40 Calhoun Street, Suite 200

Charleston, SC 29401

Phone: (843) 576-2810

Email: RDukes@turnerpadget.com

ATTORNEYS FOR DIOCESE DEFENDANTS

July 18, 2022